

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JASON GERAY,
Plaintiff,

v.

WILLIAM MUNIZ,
Defendant.

Case No. [15-cv-05354-VC](#) (PR)

**ORDER FOR PETITIONER TO SHOW
CAUSE**

Re: Dkt. Nos. 3, 5

Petitioner Jason Geray, a state inmate at Salinas Valley State Prison, files this *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254. His motions for leave to proceed *in forma pauperis* are granted.

Geray's claim is that "state documents" contain false information that he escaped from Atascadero State Hospital on April 15, 2009. In support of his contention that the "documents" are false, Geray submits a February 26, 2010 probation report indicating that, on April 15, 2009, he was remanded back from Atascadero State Hospital. His petition also indicates that, on August 8, 2008, he was convicted of use of a deadly weapon and, on November 29, 2010, he was sentenced to 19 years.

From the face of the petition it is unclear how Geray states a claim that is cognizable in a federal habeas corpus proceeding. A federal court may entertain a habeas petition from a state prisoner "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). The fact that the documents may incorrectly state that Geray escaped from Atascadero does not appear to have given rise to a state conviction or sentence. Therefore, he is not in custody in violation of the Constitution or laws or treaties of the United States based on this allegedly false information. However, if his sentence was

1 increased or if he lost good time credits because of the false information, he may be able to state a
2 cognizable habeas claim.

3 Therefore, Geray is ordered to show cause why his petition should not be dismissed for
4 failure to state a cognizable habeas claim by filing with the Court a short statement, within twenty-
5 eight days from the date of this Order, indicating whether he was convicted of a crime, whether his
6 sentence was increased or whether he lost good time credits because of the allegedly false
7 information. If Geray does not file a statement within this time frame, his petition shall be
8 dismissed with prejudice.

9 This Order terminates docket numbers 3 and 5.

10 **IT IS SO ORDERED.**

11 Dated: January 7, 2016



VINCE CHHABRIA
United States District Judge

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 7, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jason Geray ID: AF4262
Salinas Valley State Prison D-4-217
PO Box 1020
Soledad, CA 93960

Dated: January 7, 2016

Susan Y. Soong
Clerk, United States District Court



By: _____
Kristen Melen, Deputy Clerk to the
Honorable VINCE CHHABRIA